

REMARKS/ARGUMENTS

Favorable consideration of this application is respectfully requested. Applicant has amended claim 1 to include the novel subject matter of former dependent claim 16, amended independent claim 17 to include the subject matter of former dependent claim 25, amended independent claim 28 to include the subject matter of former dependent claim 29 and canceled claims 16, 25 and 29. Favorable reconsideration of this application is, consequently, earnestly solicited in view of the following remarks. Applicant gratefully appreciates the telephone conversations with Examiner Shay on September 9 and October 19, 2005.

Claims 1, 2, 5, 7, 10, 13, 16, 28 and 29 were rejected under sec. 102b as being anticipated by TENSCAM. Applicant notes that the Examiner Shay has agreed that this rejection did not cover independent claim 1 before the subject amendment.

Claims 1, 2, 5-10, 13-16, 26 and 28-30, and 17-25 and 27 were rejected under sec. 103 as being unpatentable over Murphy in view of the Tens-Cam device, and that the "Tens-Cam teaches the particular frequencies, power supplies, and treatment times and distances claimed..." Applicant respectfully disagrees.

Applicant notes the examiner's requests to provide dates of public disclosure and documentation of the Tens Cam device. Documentation has already been provided.

In response to this requirement, applicant submits the attached declaration/affidavit under 37CFR 1.132 detailing the public disclosure dates of Applicant's prior devices that predated the subject application. In essence the use of the crystal sphere lens and the side mounted perpendicular crystals were NOT publicly disclosed by the inventor before the subject application was filed.

From the affidavit, the TENS CAM was the subject of several models, notably:
TENS CAM MODELS

BASIC and Model 100-Crystal With Coil Wrap-First Public Disclosure March 25, 1999
Model 102-Sphere Lens & Coil Wrapped Crystal-First Public Disclosure March 22, 2002
Model 103-LED in front of Model 102-First Public Disclosure October 12, 2003
Current Model-PULSE CAM-Subject of Current Patent Application

Combines Model 102 with perpendicular side mounted crystals

As can be seen, the Crystal Sphere lens was first publicly disclosed in Model 102 which was AFTER the subject application was filed in February 27, 2002. Additionally, the side mounted crystals in the subject application have NOT been publicly disclosed.

Applicant has provided a declaration/affidavit under 37CFR1.132 concerning the cited prior art references. In essence it is the position of the applicant, an expert in this art area that none of these references describes, teaches or suggests the novel combination of claim 1 of a "A medical treatment device comprising: a main longitudinal crystal having a base portion and an emitting tip portion; side crystals arranged about side portions of the main longitudinal crystal between the base portion and the tip portion, the side crystals having axes being perpendicular to a longitudinal axes of the main longitudinal crystal, the side crystals being used as antennae to receive ambient energy fields about the device; means for generating a resonating frequency in the main crystal which is focused by the emitting tip portion of the crystal toward an effected body part for treatment for up to approximately 2(two) minutes; and a power supply for supplying power to the generating means; and means for forming a beam from the emitting tip portion having a diameter of approximately 5cm to approximately 6cm.

In addition, the cited prior art does not describe, teach or suggest the novel combination of dependent claim 14 of “a lens adjacent to the emitting tip portion....for diffusing and amplifying signals

In addition, the cited prior art does not describe, teach or suggest the novel combination of dependent claim 17 of “A method of treating effected body parts with a pulse emitting tool, comprising the steps of: providing a main longitudinal crystal with a base end and an emitting end; positioning side crystals about side portions of the main longitudinal crystal between the base end and the emitting end, with longitudinal axes of the side crystals being perpendicular to a longitudinal axes of the main longitudinal crystal; picking up ambient energy fields surrounding the tool through the side crystals; supplying power to a generator; generating an input signal from the generator into the main longitudinal crystal body; emitting pulses having a selected resonating frequency signal from the crystal body toward a body part for treatment; amplifying and diffusing the pulses being emitted from the main body by a lens positioned adjacent to the emitting end; and running the pulse emitting tool up to approximately 2 minutes to achieve healing effects.”

In addition, the cited prior art does not describe, teach or suggest the novel combination of dependent claim 28 of “A medical treatment device comprising: a main longitudinal solid crystal having a base portion and an emitting tip portion; a crystal sphere next to the emitting tip portion of the main longitudinal body; and a power source for generating a resonating frequency in the main crystal through the emitting tip portion of the main longitudinal crystal into an output signal which is amplified and diffused by the crystal sphere toward an effected body part for treatment for up to approximately 2(two) minutes; and side crystals arranged about side portions of the main longitudinal crystal between the base portion and the tip portion, the side crystals having axes being perpendicular to a longitudinal axes of the main longitudinal crystal, the side crystals being used as antennae to receive ambient energy fields about the device .

All of the subject independent claims 1, 17 and 28 require the limitation of “means for forming a beam from the emitting tip portion having a diameter of approximately 5cm to approximately 6cm”, claim 1, “amplifying and diffusing the pulses being emitted from the main body by a lens positioned adjacent to the emitting end”, claim 17 and “a crystal sphere next to the emitting tip portion of the main longitudinal body”, claim 28.

In addition, each of these independent claims require the limitations of “side” type “perpendicular” mounted “crystals” along with providing treatment in time periods of “up to approximately 2 minutes...”

Clearly, the TENS CAM Basic Model and TENS CAM Model 100 were the only models that were publicly disclosed by the inventor BEFORE the effective date of the subject application and both models DID NOT have these claimed features.

The use of the “crystal sphere” was NOT publicly disclosed by the inventor UNTIL about March 22, 2002 which was AFTER the subject application was filed.

The side mounted crystals have NOT been publicly disclosed by the inventor.

The inventor further disagrees that the time periods for treatment are the same. Specifically, Dr. Crosby mentions that the novel invention is able to effect “treatment” as claimed in “up to approximately 2(two) minutes.....”, and is able to generate a novel

“beam” output “having a diameter of approximately 5cm to approximately 6cm”, as claimed in subject claim 1.

Clearly, the Tens Cam unit which is discussed in the background section of the application on page 2, lines 3+, requires “approximately 2 to approximately four(4) minutes to generate therapeutic effects...” Furthermore, the Tens Cam unit as described on page 2, lines 1-3 of the background section requires a “fixed frequency of approximately 8 Herz” to generate a “beam having a diameter of approximately 1 to approximately 2 millimeters...” Clearly, these are well outside the claimed features of the independent claim 1 of the subject invention.

Still furthermore, subject dependent claim 10 has the “resonating frequency includes: a variable range of approximately 4 Hertz to approximately 15 Hertz.”

Still furthermore, subject dependent claim 13 claims “means for alternating between a fixed resonating frequency, and a variable resonating frequency.”

Nowhere does the Tens Cam device describe, teach or suggest these novel features. The statement in the rejection that the “Tens-Cam teaches the particular frequencies, and treatment times...” Is NOT supported by the actual Tens Cam prior art.

As noted above, the Claims 17 and 18 include similar novel features that are also NOT described, taught or suggested by the Basic TENS CAM or TENS CAM Model 100. Claim 17 claims “amplifying and diffusing the pulses being emitted from the main body by a lens positioned adjacent to the emitting end” along with the “perpendicular” type “crystals”, and claim 28 claims “a crystal sphere next to the emitting tip portion of the main longitudinal body” along with the “perpendicular” type “crystals.” In addition, each of these independent claims require providing treatment in time periods of “up to approximately 2 minutes...”

Applicant previously supplied a copy of the TENS CAM Revision 9/15/01, and references to public disclosure of the BASIC TENS CAM MODEL, which was effectively MODEL 100. MODEL 102, MODEL 103 and the subject PULSE CAM Model DO NOT HAVE ANY effective public disclosure dates BEFORE the subject application was filed. Thus, with this submission, this requirement has been met by the applicant.

As noted in the attached affidavit, the basic TENS CAM and TENS CAM Model 100 were NOT capable of providing the novel treatments described in the subject application. In addition, the Murphy reference requires a light bulb as a heat source that the Applicant has distinguished over in the background section of the subject application.

It is clearly improper for the examiner to arbitrarily ignore any of the novel features of any of the claims. Under the rules of the MPEP, if the applicant requests the examiner cite the reference(s) showing each and every one of the references that supports a rejection, the examiner must cite the reference or remove the rejection. Under the rules, applicant requests the examiner specifically point out which uncited reference(s) describes and teaches these unsubstantiated opinions and assertions raised in the rejection that the entire invention is obvious under sec. 103. Under the MPEP and CFR sections cited above, the examiner must cite the reference(s) that shows these unsubstantiated opinions and assertions mentioned in their rejection, or remove the 103 rejection for at least these reasons alone.

The mere fact that someone in the art can rearrange parts of a reference device to meet the terms of a claim is not by itself sufficient to support a finding of obviousness. The prior art must provide a motivation or reason for someone of ordinary skill in the art, without the benefit of the inventor's specification to make the necessary changes in the reference device. *Ex parte Chicago Rawhide Mfg. Co.*, 223 USPQ 351, 353 (Bd. Pat. App. & Inter. 1984).

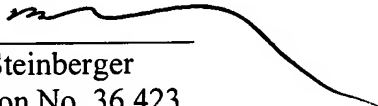
There is no teaching, nor suggestion for modifying the references of record to include all the novel features of the amended claims. Under well recognized rules of the MPEP (for example, section 706.02(j)), the teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

Arguably, it might be "obvious to try" to test whether the combination of a "main longitudinal crystal having ...side crystals arranged about side portions ... the side crystals having axes being perpendicular to a longitudinal axes of the main longitudinal crystal....means for generating a resonating frequency in the main crystal which is focused by the emitting tip portion of the crystal toward an effected body part for treatment for up to approximately 2(two) minutes; and....means for forming a beam from the emitting tip portion having a diameter of approximately 5cm to approximately 6cm" of claim 1 would give treatment results as a medical treatment device. Similarly, it might be "obvious to try" to test the similar arrangements of independent claims 17 and 28. However, the Examiner is well aware that "obvious to try" is not the standard for determining inventiveness. See also *In re Kaplan*, 789 F. 2d at 1580, 229 U.S.P.Q. at 683, where the court held: "In effect, what the Board did was to use a disclosure of appellants' own joint invention which had been incorporated in the Kaplan sole disclosure to show that their invention was but an obvious variation of Kaplan's claimed invention. That amounts to using an applicant's invention disclosure, which is not a 1-year time bar, as prior art against him. That is impermissible."

Applicant contends the references cannot be modified to incorporate the features of subject claims 1, 2, 5-10, 13-15, 17, 26, 27, 28, 30 without utilizing Applicant's disclosure. The courts have consistently held that obviousness cannot be established by combining the teachings of the prior art to Applicant to produce the claimed invention, absent some teaching, suggestion, incentive or motivation supporting the combination.

In view of the foregoing considerations, it is respectfully urged that claims 1, 2, 5-10, 13-15, 17, 26, 27, 28, 30 be allowed. Such action is respectfully requested. If the Examiner believes that an interview would be helpful, the Examiner is requested to contact the attorney at the below listed number.

Respectfully Submitted;



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Date

11/2/08



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Charles Crosby
Serial No.: 10/084,008
Filed: 02/27/2002
For: PULSE CAM
Examiner: David M. Shay
Attorney Docket No.: PC-1204

DECLARATION UNDER 37 CFR 1.132

Honorable Commissioner of Patents
and Trademarks
P.O. BOX 1450
Alexandria, Virginia 22313-1450

Sir:

Charles J. Crosby D.O. M.D.(H), FAAOS, FAAO declares that:

1. I am a co-inventor of and familiar with the present U.S. Patent Application 10/084,008 filed 02/27/2002, in the name of the Crosby Advanced Medical Systems, Inc, which is entitled: PULSE CAM.

I am familiar with the Official Action dated August 26, 2005 issued therein and with the prior art references cited in the Official Action, including the Basic TENS CAM DEVICE(also referred to below as TENS CAM Model 100)(Primary Reference). I am also familiar with the patent reference cited in the same Official Action that the Examiner used entitled: MURPHY(Secondary Reference).

2. I received my undergraduate degree as a Bachelor of Science from Springfield College in 1967. I received my advanced degree in D.O.(Doctorate of Osteopathy) in 1969 from The Kirksville College of Osteopathic Medicine in 1969.

From 1969 to 1970 I interned at Grandview Hospital, in Dayton, Ohio.

From 1970 to 1971 I interned at Oakwood Hospital in Dearborn, MI.

From 1971-1972 I interned general surgery at Oakwood Hospital in Dearborn, MI.

From 1972-1975 I interned orthopedic surgery at Blodgett Hospital in Grand Rapids, MI.

From 1975-1981 I practiced medicine at Carson City Hospital in Carson City, Michigan.

From 1981-1986 I practiced medicine at Liela Hospital in Battle Creek, Michigan.

From 1987-1989 I practiced medicine at Southside Community Hospital in Farmville, VA.

From 1989-1996 I practiced medicine at Orlando Veterans Administration Clinic, Orlando, FL

From 1996-2002 I practiced medicine in private practice in Orlando, FL

My Certifications include:

American Academy of Osteopathic Specialists, Current

Orthopedic Surgery Certification in 1983, 1987

Fellow American Academy Osteopathic Specialists, 1993

Fellow American Academy Osteopathy, 2004

American Osteopathic Association, Current

Neuromuscular Medicine 1997

American Academy of Pain Management, 1999

Board Eligible Clinical Metal Toxicology 2004

Homeopathic Physician, Arizona 2004

My Teaching Positions have included:
Asst. Clinical Professor Orthopedic Surgery, West Virginia College of Osteopathic Medicine Asst.
Clinical Professor Orthopedic Surgery, Michigan State College of Osteopathic Medicine

I am a member of the following Professional Associations:

American Osteopathic Association
American Academy of Physicians Specialists
American Board of Orthopedic Surgery
Florida Osteopathic Medical Association
American Academy of Osteopathy
The American Osteopathic Academy of Sclerotherapeutic Pain Management
The American Academy of Orthopedic Medicine
The Cranial Academy
American Board of Clinical Metal Toxicology

My current occupation is the Chief Executive Officer(CEO) and the Director of Research, Development and Marketing for Crosby Advanced Medical Systems.

My primary areas of research include medical device development as it relates to the treatment of pain and disease. I have developed and manufactured several products that include the Tens Cam, a single frequency generating crystal that was described in the background section of the subject patent application, the PULSECAM which is described in the subject patent application and the FLASHCAM which is described in a recently filed patent application.

I have authored and co-authored papers in fields on pain and disease management. In addition to this patent application, I have patents pending on a related invention entitled: FLASHCAM.

I have been studying in these areas of pain and disease management using crystal devices for over eight(8) years since 1997. I have also spoken and taught internationally in these areas on numerous occasions and conducted workshops that have taught more than three hundred fifty(350) therapists the treatment processes in these areas.

3. A significant part of the invention is the discovery of a “medical treatment device” having the combination of a “main longitudinal crystal; side crystals arranged about side portions of the main longitudinal crystal...the side crystals being perpendicular to a “longitudinal axes of the main longitudinal crystal, the side crystals being used as antennae to receive ambient energy fields about the device; means for generating a resonating frequency in the main crystal which is focused by the emitting tip portion...toward an effected body part for treatment for up to approximately 2(two) minutes...(with) means for forming a beam from the emitting tip portion having a diameter of approximately 5cm to approximately 6cm”, claim 1.

In addition, as significant part of the invention is the novel “method of treating effected body parts” by the combined steps of “providing a main longitudinal crystal....positioning side crystals ...perpendicular to the longitudinal axes of the main longitudinal crystal; picking up ambient energy fields surrounding the tool through the side crystals....emitting pulses having a selected resonating frequency ...toward a body part for treatment... amplifying and diffusing the pulses being emitted from the main body by a lens positioned adjacent to the emitting endrunning the pulse emitting tool up to approximately 2 minutes....”, claim 17.

Still furthermore, another significant part of the invention is the combination of a “medical treatment device comprising: a main longitudinal solid crystal....a crystal sphere next to the emitting tip portion of the main longitudinal body....power source for generating a resonating frequency

in the main crystal through the emitting tip portion of the main longitudinal crystal into an output signal which is amplified and diffused by the crystal sphere toward an effected body part for treatment for up to approximately 2(two) minutes; and side crystals being perpendicular to a longitudinal axes of the main longitudinal crystal, the side crystals being used as antennae to receive ambient energy fields about the device", claim 28.

Specifically, pages 3-10 of the originally filed specification and the other claims specifically refers to these features. These features and their combination are unique and are not anticipated nor rendered obvious from the Primary Reference by itself, or by the Primary Reference in combination with the Secondary Reference listed above.

As previously noted I am a Board Certified Orthopedic Surgeon, with more than 30(thirty) years of clinical experience, as well as being Board Certified in Osteopathic Manipulative Medicine and Certified by the American Academy of Pain Management. I have also been studying in these areas of pain and disease management using crystal devices for over eight(8) years since 1997, and have spoken and taught internationally in these areas on numerous occasions and conducted workshops that have taught more than three hundred fifty(350) therapists the treatment processes in these areas.

Part of my prior knowledge of devices in these areas is also described on pages 1 and 2 of the background section of subject application specification. As detailed in the background section, I previously developed a basic device entitled: "Tens Cam" which only used a single fixed frequency generating crystal that solely relied on an electromagnetic induction coil to drive the single crystal. A fixed frequency of approximately 8 Hertz was generated by an electromagnetic source in a narrow beam having a diameter of approximately 1 to approximately 2 millimeters. The delay time for therapeutic effects of the Basic Tens Cam unit was approximately two to approximately four(4) minutes to generate therapeutic effects on the patient which became difficult to do over continuous treatments that required the operator to physically hold the unit which weighed almost one pound, above the patient being treated. In addition other problems existed with this unit. Operator fatigue was an inherent result of using this unit. The various versions of the Tens Cam are described below and in the appendix.

The Basic Tens Cam unit required an operator to physically hold the unit above a patient throughout the treatment process so that the operator received direct vibratory effects from physically holding the unit. The combination of constantly holding the weight of the unit and the direct vibratory effects, along with the operator being constantly within the generation field of the unit created side effects such as but not limited to fatigue and malaise and Carpal Tunnel Syndrome. Operators repeatedly using the Basic Tens Cam have complained of side effects of median nerve paraethias, which is a numbness and tingling effect to their hands and fingers.

Additional problems with the Basic Tens Cam unit as with other electromagnetic and with vibratory units is that all these units are known to give off heat which has caused tissue damage. Furthermore, Basic Tens Cam and other prior art type units have limitations as to the tissue penetration being achieved, since the tissue penetration depth is limited by the mechanical nature of the vibrations.

Before we applied for the subject patent application it was not publicly known to modify the Basic Tens Cam with "amplifying and diffusing" components, such as using a "lens", "Crystal Sphere sphere" for generating an output beam having "a diameter of approximately 5cm to approximately 6cm", which is required in all our independent patent claims. In addition, none of the cited prior art references describe such features.

In addition, none of the cited references was able to use "additional energy to aid in the therapy treatment. Thus, these prior art devices are limited to mechanical devices and do not incorporate other approaches with their use. Furthermore, using strictly handheld supported devices can potentially injure the patients themselves, if the operator directly contacts the patients with the devices.

It was NOT until the subject invention that I discovered that we can actually provide a “medical treatment device” and “method of treating effected body parts with a pulse emitting tool” referenced in the claims of a “main longitudinal crystal; side crystals arranged about side portions of the main longitudinal crystal...the side crystals being perpendicular to a “longitudinal axes of the main longitudinal crystal, the side crystals being used as antennae to receive ambient energy fields about the device; means for generating a resonating frequency in the main crystal which is focused by the emitting tip portion...toward an effected body part for treatment for up to approximately 2(two) minutes....(with) means for forming a beam from the emitting tip portion having a diameter of approximately 5cm to approximately 6cm”, claim 1, the combined steps of “providing a main longitudinal crystal....positioning side crystals ...perpendicular to the longitudinal axes of the main longitudinal crystal; picking up ambient energy fields surrounding the tool through the side crystals....emitting pulses having a selected resonating frequency ...toward a body part for treatment... amplifying and diffusing the pulses being emitted from the main body by a lens positioned adjacent to the emitting endrunning the pulse emitting tool up to approximately 2 minutes....”, claim 17, and the combination of “ medical treatment device comprising: a main longitudinal solid crystal....a crystal sphere next to the emitting tip portion of the main longitudinal body....power source for generating a resonating frequency in the main crystal through the emitting tip portion of the main longitudinal crystal into an output signal which is amplified and diffused by the crystal sphere toward an effected body part for treatment for up to approximately 2(two) minutes; and side crystals being perpendicular to a longitudinal axes of the main longitudinal crystal, the side crystals being used as antennae to receive ambient energy fields about the device, claim 28.

Attached is an Appendix that details the general development and public disclosure dates of the various versions of the Tens Cam Device, and the subject Pulse Cam Invention. The background section of the subject application describes and refers solely to the Basic Tens Cam and the Tens Cam Model 100. Basically, the Basic Tens Cam and the Model 100 version were a single longitudinal crystal with a coil wrap. It was not until Model 102, which was not publicly disclosed until March 2002, after we filed the subject patent application, where we discovered that adding the Crystal Sphere Lens created additional novel results of amplifying and diffusing the output beam to a diameter of approximately 5cm to approximately 6cm. The novel “perpendicular” side mounted “crystals” to date have not been publicly disclosed.

The public disclosure dates of the Tens Cam devices with their main components are summarized below:

TENS CAM MODELS

BASIC & Model 100-Crystal With Coil Wrap-First Public Disclosure March 25, 1999

Model 102-Sphere Lens with Coil Wrapped Crystal-First Public Disclosure March 22, 2002

Model 103-LED in front of Model 102-First Public Disclosure October 12, 2003

Current Model-PULSE CAM-Subject of Current Patent Application
Combines Model 102 with perpendicular side mounted crystals

The use of the “amplifying and diffusing” components, “lens”, “Crystal Sphere” for generating an output beam having “a diameter of approximately 5cm to approximately 6cm”, was first publicly disclosed in Model 102 in March 2002 which was AFTER my patent application was filed in February 27, 2002. Additionally, the side mounted crystals in the subject application have NOT been publicly disclosed.

Thus, there was NO public disclosure of our claimed use of “amplifying and diffusing” components”, “lens”, “Crystal Sphere” for generating an output beam having “a diameter of

approximately 5cm to approximately 6cm”, that was more than one year before the February 27, 2002 filing of the subject patent application.

4. Since I developed the Tens Cam devices, I am very familiar with the Primary Reference: TENS CAM DEVICE which was cited in the office action dated October 26, 2005.

As described above and as shown in the attached appendix, the Basic Tens Cam device and Tens Cam Model 100 was limited to a single crystal with a coil wrap that must run for approximately 2 minutes to 4 minutes. There was NO “amplifying and diffusing” components, “lens”, “Crystal Sphere” for generating an output beam having “a diameter of approximately 5cm to approximately 6cm”, or similar component(s) used in the Basic Tens Cam or in the Tens Cam Model 100.

The Basic Tens Cam device and Tens Cam Model 100 that was publicly disclosed more than one year before the subject invention filing date is structurally and functionally different than the subject invention, and the Basic Tens Cam device and Tens Cam Model 100 have components and operating features substantially different than the subject invention.

For example, subject claims 1, 17 and 28 require “amplifying and diffusing” components (“lens”, “Crystal Sphere” for generating an output beam having “a diameter of approximately 5cm to approximately 6cm”), along with “side crystals” oriented “perpendicular” to the “main crystal” and therapy occurs up to approximately 2 minutes in time. Clearly, the Basic Tens Cam device and Tens Cam Model 100 cannot anticipate our invention or render our invention to be obvious.

I am also familiar with the U.S. Patent 1,510,080 to Murphy, which was applied for in 1922, which is well before the use of “crystals” that are used and claimed in the subject invention. Murphy clearly requires the use of a heat generating “radiator 23” that he only describes as a “incandescent electric lamp or other device for emitting rays and is of the usual construction..”, page 1, lines 87-89. Murphy is clearly concerned with the generation of heat from the “radiator” since, he mentions on page 1, lines 18-23 that he requires an “effective means for the ventilation of the enclosure..to eliminate(other components) from becoming broken by the effect of heat from the radiator.” Murphy requires the use of “top and bottom ...ventilating outlet 9 and 10 respectively..” page 1, lines 54-56 and “ventilating space 17”, page 1, lines 66-68, “ventilating opening 20...similar opening 21...passage-ways 22, page 1, lines 76-85 to dissipate this heat.

Clearly, Murphy has the same heat generating problems that we described in the background section of our patent application. As such, Murphy is no better than the known prior art devices that we referenced in the background section of the invention. Murphy would not be practical or useful for the treatments that my device performs.

Additionally, Murphy requires an elaborate setup and combination of additional components such as “annular flange 13”, “channel bar 14”, “pair of mirrors 16”, “two glass strips 18”, “prisms 24”, “auxiliary reflector 26”, “glass strips 28, “filter plates 7 and 8”, in addition to the radiating heat source 23. Murphy clearly requires the use of heat for medical therapy. Again, the subject invention does not use any heat for medical therapy.

Also, Murphy has no “amplifying and diffusing” components (“lens”, “Crystal Sphere” for generating an output beam having “a diameter of approximately 5cm to approximately 6cm”), that are required by the patent application independent claims 1, 17 and 28. Murphy instead requires “filter plates 7 and 8”, page 2, that he states modifies the “color” of his output which has nothing to do with “amplifying and diffusing” components (“lens”, “Crystal Sphere” for generating an output beam having “a diameter of approximately 5cm to approximately 6cm”), that are required by our claims.

Again, this complex and elaborate setup of components within a large cumbersome drum holder with conical end used in Murphy is no better than the prior art devices I referenced in the background section of our patent application. As such Murphy would not be practical or useful for the treatments that my invention performs.

Nowhere does Murphy describe, teach, or suggest a “medical treatment device” and “method of treating effected body parts with a pulse emitting tool” referenced in the claims of a “main longitudinal

crystal; side crystals arranged about side portions of the main longitudinal crystal...the side crystals being perpendicular to a “longitudinal axes of the main longitudinal crystal, the side crystals being used as antennae to receive ambient energy fields about the device; means for generating a resonating frequency in the main crystal which is focused by the emitting tip portion...toward an effected body part for treatment for up to approximately 2(two) minutes....(with) means for forming a beam from the emitting tip portion having a diameter of approximately 5cm to approximately 6cm”, claim 1, the combined steps of “providing a main longitudinal crystal....positioning side crystals ...perpendicular to the longitudinal axes of the main longitudinal crystal; picking up ambient energy fields surrounding the tool through the side crystals....emitting pulses having a selected resonating frequency ...toward a body part for treatment... amplifying and diffusing the pulses being emitted from the main body by a lens positioned adjacent to the emitting endrunning the pulse emitting tool up to approximately 2 minutes....”, claim 17, and the combination of “ medical treatment device comprising: a main longitudinal solid crystal....a crystal sphere next to the emitting tip portion of the main longitudinal body....power source for generating a resonating frequency in the main crystal through the emitting tip portion of the main longitudinal crystal into an output signal which is amplified and diffused by the crystal sphere toward an effected body part for treatment for up to approximately 2(two) minutes; and side crystals being perpendicular to a longitudinal axes of the main longitudinal crystal, the side crystals being used as antennae to receive ambient energy fields about the device, claim 28.

Thus, the novel combinations in independent claims 1, 17 and 28, are clearly outside the scope of the 1922 filed patent to Murphy.

5. As described in our patent application on page 9 we have test data that shows treatment has been effective with various physically painful ailment areas such as those listed in Table 1(which is reprinted below) within time frames of up to approximately 2 minutes which is substantially less than the approximately 2 to approximately 4 minutes that was needed with the prior art Basic Tens Cam unit and Tens Cam Model 100. Ultrasound studies and scans taken from various patients that have been treated by the subject invention have shown that less inflammation exists in the body areas where these painful ailments occur. Clearly, I have documented that our invention reduces the inflammation and pain in the body structures which is the bases of its pain relief.

TABLE 1.

AILMENTS Column 1 List

Ankle Sprain

Tennis Elbow

Torn Meniscus

Back Pain

Nerve Root

Bursitis

Neck Pain

Macular Degeneration

Hernia

Gallbladder

Foot Pain

Scars

AILMENTS Column 2 List

Headache

Earache

Sinusitis

Burns

Wounds

Abrasions

GERD

TMJ

Morton's Neuroma

Arthritis

Sore Throat

Shingles

6. I have tested the Basic TENS CAM device and TENS CAM Model 100 and found that these devices would not provide the therapy test results that were achieved with our invention.

I have also tested heat generating devices such as the one described in the Murphy patent and other devices similar to those cited by the Patent Office. These devices would also not provide the therapy test results that were achieved with my invention.

In my opinion the Basic TENS CAM device, TENS CAM Model 100 and the patents in individually or in combination referenced by the Patent Office would not be able to achieve the novel results that were achieved by the novel combination of “medical treatment device” and “method of treating effected body parts with a pulse emitting tool” referenced in the claims of a “main longitudinal crystal; side crystals arranged about side portions of the main longitudinal crystal...the side crystals being perpendicular to a “longitudinal axes of the main longitudinal crystal, the side crystals being used as antennae to receive ambient energy fields about the device; means for generating a resonating frequency in the main crystal which is focused by the emitting tip portion...toward an effected body part for treatment for up to approximately 2(two) minutes....(with) means for forming a beam from the emitting tip portion having a diameter of approximately 5cm to approximately 6cm”, claim 1, the combined steps of “providing a main longitudinal crystal....positioning side crystals ...perpendicular to the longitudinal axes of the main longitudinal crystal; picking up ambient energy fields surrounding the tool through the side crystals....emitting pulses having a selected resonating frequency ...toward a body part for treatment... amplifying and diffusing the pulses being emitted from the main body by a lens positioned adjacent to the emitting endrunning the pulse emitting tool up to approximately 2 minutes....”, claim 17, and the combination of “ medical treatment device comprising: a main longitudinal solid crystal....a crystal sphere next to the emitting tip portion of the main longitudinal body....power source for generating a resonating frequency in the main crystal through the emitting tip portion of the main longitudinal crystal into an output signal which is amplified and diffused by the crystal sphere toward an effected body part for treatment for up to approximately 2(two) minutes; and side crystals being perpendicular to a longitudinal axes of the main longitudinal crystal, the side crystals being used as antennae to receive ambient energy fields about the device, claim 28.

7. In the prior art cited there was no understanding or any discussions to the novel combination of a “medical treatment device” and “method of treating effected body parts with a pulse emitting tool” referenced in the claims of a “main longitudinal crystal; side crystals arranged about side portions of the main longitudinal crystal...the side crystals being perpendicular to a “longitudinal axes of the main longitudinal crystal, the side crystals being used as antennae to receive ambient energy fields about the device; means for generating a resonating frequency in the main crystal which is focused by the emitting tip portion...toward an effected body part for treatment for up to approximately 2(two) minutes....(with) means for forming a beam from the emitting tip portion having a diameter of approximately 5cm to approximately 6cm”, claim 1, the combined steps of “providing a main longitudinal crystal....positioning side crystals ...perpendicular to the longitudinal axes of the main longitudinal crystal; picking up ambient energy fields surrounding the tool through the side crystals....emitting pulses having a selected resonating frequency ...toward a body part for treatment... amplifying and diffusing the pulses being emitted from the main body by a lens positioned adjacent to the emitting endrunning the pulse emitting tool up to approximately 2 minutes....”, claim 17, and the combination of “ medical treatment device comprising: a main longitudinal solid crystal....a crystal sphere next to the emitting tip portion of the main longitudinal body....power source for generating a resonating frequency in the main crystal through the emitting tip portion of the main longitudinal crystal into an output signal which is amplified and diffused by the crystal sphere toward an effected body part for treatment for up to approximately 2(two) minutes; and side crystals being perpendicular to a longitudinal axes of the main longitudinal crystal, the side crystals being used as antennae to receive ambient energy fields about the device, claim 28.

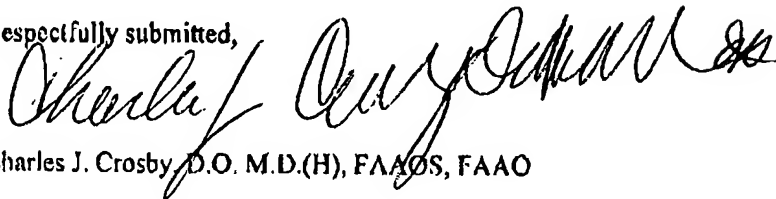
8. Based on my opinion and vast research experience in these areas it would not have been anticipated or obvious to a person of ordinary skill in the art to invent the novel combination of a “medical treatment device” and “method of treating effected body parts with a pulse emitting tool” referenced in the claims of a “main longitudinal crystal; side crystals arranged about side portions of the main longitudinal crystal...the side crystals being perpendicular to a “longitudinal axes of the main longitudinal crystal, the side crystals being used as antennae to receive ambient energy fields about the device; means for generating a resonating frequency in the main crystal which is focused by the emitting

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tip portion...toward an effected body part for treatment for up to approximately 2(two) minutes....(with) means for forming a beam from the emitting tip portion having a diameter of approximately 5cm to approximately 6cm", claim 1, the combined steps of "providing a main longitudinal crystal....positioning side crystals ...perpendicular to the longitudinal axes of the main longitudinal crystal; picking up ambient energy fields surrounding the tool through the side crystals....emitting pulses having a selected resonating frequency ...toward a body part for treatment... amplifying and diffusing the pulses being emitted from the main body by a lens positioned adjacent to the emitting endrunning the pulse emitting tool up to approximately 2 minutes....", claim 17, and the combination of " medical treatment device comprising: a main longitudinal solid crystal....a crystal sphere next to the emitting tip portion of the main longitudinal body....power source for generating a resonating frequency in the main crystal through the emitting tip portion of the main longitudinal crystal into an output signal which is amplified and diffused by the crystal sphere toward an effected body part for treatment for up to approximately 2(two) minutes; and side crystalsbeing perpendicular to a longitudinal axes of the main longitudinal crystal, the side crystals being used as antennae to receive ambient energy fields about the device, claim 28.

9. I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Respectfully submitted,



Charles J. Crosby, D.O. M.D.(H), FAAOS, FAAO

Dated: October 28, 2005

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DATE

APPENDIX

Development and Public Disclosure(Presentation/Sale)

Summer, 1997

Dr. Crosby attended public lecture at Cranial Academy in Chicago Illinois-Mention that Piezoelectric Crystals may be used in therapy

March 1999

First Public Disclosure Date of Basic TENS CAM (Long Crystal With Wire Wrap)

March 25, 1999

AAO(American Academy of Osteopathy) St. Louis, MI Convocation Dr. Crosby presents BASIC TENS CAM UNIT of Coil wrapped around a longitudinal Crystal, powered by LISS BODY STIMULATOR power pack(LEDs indicate power)

March 1999

AOA (American Osteopathic Association)
Dr. Crosby presents BASIC TENS CAM UNIT of Coil wrapped around a longitudinal Crystal, powered by LISS BODY STIMULATOR power pack(LEDs indicate power)

October 1999

ACOPM(American College of Osteopathic Pain Management) Phoenix, AZ
Presentation: "Low Frequency Quartz Modulated Pain Control"
Dr. Crosby presents BASIC TENS CAM UNIT of Coil wrapped around a longitudinal Crystal, powered by LISS BODY STIMULATOR power pack(LEDs indicate power)

March 2000

ACOPM(American College of Osteopathic Pain Management) Phoenix, AZ
Presentation: "Non-Needle Neurotherapy"
Dr. Crosby presents BASIC TENS CAM UNIT of Coil wrapped around a longitudinal Crystal, powered by LISS BODY STIMULATOR power pack(LEDs indicate power)

July 2000

Russian Ostopathic Association International Conference on Osteopathy, St. Petersburg, Russia
Dr. Crosby presents BASIC TENS CAM UNIT of Coil wrapped around a longitudinal Crystal, powered by LISS BODY STIMULATOR power pack(LEDs indicate power)

Model 100
September 15, 2001

TENS CAM Model 100-Long Crystal with Coil Wrap
TENS CAM PROFESSIONAL MANUAL
REVISION 9-15-01-Model 100
First Sales Version of BASIC TENS CAM UNIT of Coil
wrapped around a longitudinal Crystal, powered by LISS
BODY STIMULATOR power pack(LEDs indicate power)

**** NO MODEL 101 WAS CREATED

Model 102
March 22, 2002

TENS CAM-Sphere Crystal Lens&Coil Wrapped Crystal
TENS CAM MODEL 102
First Public Disclosure/Sale Date
March 22, 2002,
American Academy of Osteopathy Trade Show
Norfolk, Virginia

March 22, 2002

FIRST PUBLIC DISCLOSURE USE OF SPHERE
CRYSTAL LENS IN FRONT OF COIL WRAPPED
LONG CRYSTAL

Model 103
October 12-14, 2003

TENS CAM MODEL 103
LED TIP ADDED IN FRONT OF SPHERE CRYSTAL
LENS WITH COIL WRAPPED CRYSTAL
First Public Disclosure/Sale Date
October 12-14, 2003
AOA (American Osteopathic Association) Trade Show
New Orleans, Louisiana

PULSE CAM Model
Current Model

PULSE CAM Model
Sphere Crystal Lens in Front of Coil Wrapped Crystal with
Perpendicular Side Mounted Crystals
No Current Public Disclosure on PULSE CAM Model